

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q67729

Patrick Michael VAN BAAL, et al.

Appln. No.: 10/019,560

Group Art Unit: 3721

Confirmation No.: 8705

Examiner: Gloria R. Weeks

Filed: April 29, 2002

For: FLEXIBLE CONTAINER MADE OF FILM MATERIAL AND FILLING METHOD
FOR FILLING SUCH A CONTAINER WITH A FLUID SUBSTANCE

RESPONSE TO RESTRICTION REQUIREMENT

MAIL STOP AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement dated August 9, 2005, Applicants hereby elect to prosecute method claims 9-11 and 14. However, this election is with traverse.

More specifically, Applicants respectfully submit that the Examiner is estopped from restricting the claims between claims 1, 4-8 and 13 drawn to the flexible container and claims 9-11 and 14 drawn to a method of filling the flexible container because the Examiner has previously examined all claims. See, the Office Actions dated November 13, 2003, August 28, 2004, and March 15, 2005. More specifically, having previously examined all claims, the Examiner is now estopped from restricting the claims between Groups I and II as the Examiner has done in paragraph 2 of the Office Action. In view of the time and expense that the Applicants have put into the application to date, it would be unfair for the Examiner to now force



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the Applicants to examine only one of the above-mentioned groups. Furthermore, it is respectfully submitted that maintaining the claims in a single application does not pose an undue burden on the Examiner. Indeed, in the previous Office Action, the Examiner has relied on virtually the same prior art in rejecting the two claim sets. In fact, it is noted that in the Advisory Action dated June 1, 2005, the Examiner indicated that claims 9-11 and 14 were allowable. Thus, these claims should still be allowable only leaving claims 1-, 4-8 and 13 in the application. In other words, even if the Restriction Requirement is withdrawn, the Examiner need only examine the first group of claims. It is simply unfair for the Examiner to restrict the subject application into two groups of claims, when one group has already been allowed.

In view of the foregoing, prosecution of all claims on the merits is respectfully requested.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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23373
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Date: October 11, 2005